

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK

CHERYL GIBBS, )  
Plaintiff, ) Civil Action No. 07cv9851 (GBD)  
v. )  
VERIZON, )  
Defendant. )

**DEFENDANT'S ANSWER AND AFFIRMATIVE DEFENSES**

Now comes Defendant, by and through its undersigned counsel, and files the following Answer and Affirmative Defenses to Plaintiff's Complaint:

**ANSWER**

1. As answer to Plaintiff's Complaint, Defendant admits that Plaintiff submitted a claim for a disability pension under the Verizon Pension Plan For New York and New England Associates (the "Plan"), and that Plaintiff's claim was denied because she did not meet the eligibility requirements for a disability pension under the Plan.

2. All other allegations in Plaintiff's Complaint are denied.

**FIRST AFFIRMATIVE DEFENSE**

3. The claims asserted by Plaintiff in the Complaint fail to state a claim upon which relief may be granted.

**SECOND AFFIRMATIVE DEFENSE**

4. The claims asserted by Plaintiff in the Complaint are barred by virtue of the fact that under the applicable plan, the Verizon Claims Review Committee has discretionary authority to determine benefit eligibility and to construe the terms of the plan.

**THIRD AFFIRMATIVE DEFENSE**

5. The claims asserted by Plaintiff in the Complaint are barred by virtue of the fact that the Verizon Claims Review Committee administered the plan according to its terms.

**FOURTH AFFIRMATIVE DEFENSE**

6. The claims asserted by Plaintiff in the Complaint are barred by virtue of the fact that the Verizon Claims Review Committee did not act arbitrarily or capriciously.

**FIFTH AFFIRMATIVE DEFENSE**

7. Verizon is not a proper defendant with respect Plaintiff's claims, because (1) no legal entity named "Verizon" exists, and (2) Verizon is neither an administrator nor a fiduciary under the Plan, and is not responsible for paying benefits under the Plan.

**SIXTH AFFIRMATIVE DEFENSE**

8. Plaintiff's claims are barred in whole or in part by the applicable statute of limitations.

WHEREFORE, Defendant requests that judgment be entered in its favor with respect to all claims asserted in Plaintiff's Complaint, and that it be awarded its costs and attorneys' fees in defending this action.

Respectfully submitted,

s/ Eve I. Klein  
Eve I. Klein  
Duane Morris LLP  
1540 Broadway

New York, NY 10036  
(212) 692-1065

*Of Counsel:*  
John A. Reade, Jr.  
Duane Morris LLP  
30 South 17<sup>th</sup> Street  
Philadelphia, PA 19103  
(215) 979-1855

Attorneys for Defendant

Dated: March 24, 2008

**CERTIFICATE OF SERVICE**

I hereby certify that on this 24th day of March, 2008 a true and correct copy of the foregoing Defendant's Answer and Affirmative Defenses was served upon Plaintiff Cheryl Gibbs at the following address by first-class mail, postage prepaid:

Cheryl Gibbs  
594 Union Avenue, Apt. #2D  
Bronx, NY 10455

s/ Eve I. Klein